

105TH CONGRESS
1ST SESSION

H. R. 1704

To establish a Congressional Office of Regulatory Analysis.

IN THE HOUSE OF REPRESENTATIVES

MAY 22, 1997

Mrs. KELLY (for herself and Mr. TALENT) introduced the following bill; which was referred to the Committee on the Judiciary, and in addition to the Committee on Government Reform and Oversight, for a period to be subsequently determined by the Speaker, in each case for consideration of such provisions as fall within the jurisdiction of the committee concerned

A BILL

To establish a Congressional Office of Regulatory Analysis.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “Congressional Office
5 of Regulatory Analysis Creation Act”.

6 **SEC. 2. FINDINGS.**

7 The Congress finds that—

8 (1) Federal regulations have had a positive im-
9 pact in protecting the environment and the health
10 and safety of all Americans; however, uncontrolled

1 increases in the costs that regulations place on the
2 economy cannot be sustained;

3 (2) the legislative branch has a responsibility to
4 see that the laws it passes are properly implemented
5 by the executive branch;

6 (3) effective implementation of chapter 8 of
7 title 5 of the United States Code (relating to con-
8 gressional review of agency rulemaking) is essential
9 to controlling the regulatory burden that the Gov-
10 ernment places on the economy; and

11 (4) in order for the legislative branch to fulfill
12 its responsibilities under chapter 8 of title 5, United
13 States Code, it must have accurate and reliable in-
14 formation on which to base its decisions.

15 **SEC. 3. ESTABLISHMENT OF OFFICE.**

16 (a) ESTABLISHMENT.—

17 (1) IN GENERAL.—There is established a Con-
18 gressional Office of Regulatory Analysis (hereinafter
19 in this Act referred to as the “Office”). The Office
20 shall be headed by a Director.

21 (2) APPOINTMENT.—The Director shall be ap-
22 pointed by the Speaker of the House of Representa-
23 tives and the majority leader of the Senate without
24 regard to political affiliation and solely on the basis

1 of the Director's ability to perform the duties of the
2 Office.

3 (3) TERM.—The term of office of the Director
4 shall be 4 years, but no Director shall be permitted
5 to serve more than 3 terms. Any individual ap-
6 pointed as Director to fill a vacancy prior to the ex-
7 piration of a term shall serve only for the unexpired
8 portion of that term. An individual serving as Direc-
9 tor at the expiration of that term may continue to
10 serve until the individual's successor is appointed.

11 (4) REMOVAL.—The Director may be removed
12 by a concurrent resolution of the Congress.

13 (5) COMPENSATION.—The Director shall re-
14 ceive compensation at a per annum gross rate equal
15 to the rate of basic pay, as in effect from time to
16 time, for level III of the Executive Schedule in sec-
17 tion 5314 of title 5, United States Code.

18 (b) PERSONNEL.—The Director shall appoint and fix
19 the compensation of such personnel as may be necessary
20 to carry out the duties and functions of the Office. All
21 personnel of the Office shall be appointed without regard
22 to political affiliation and solely on the basis of their fit-
23 ness to perform their duties. The Director may prescribe
24 the duties and responsibilities of the personnel of the Of-
25 fice, and delegate to them authority to perform any of the

1 duties, powers, and functions imposed on the Office or on
2 the Director. For purposes of pay (other than pay of the
3 Director) and employment benefits, rights, and privileges,
4 all personnel of the Office shall be treated as if they were
5 employees of the House of Representatives.

6 (c) EXPERTS AND CONSULTANTS.—In carrying out
7 the duties and functions of the Office, the Director may
8 procure the temporary (not to exceed one year) or inter-
9 mittent services of experts or consultants or organizations
10 thereof by contract as independent contractors, or, in the
11 case of individual experts or consultants, by employment
12 at rates of pay not in excess of the daily equivalent of
13 the highest rate of basic pay under the General Schedule
14 of section 5332 of title 5, United States Code.

15 (d) RELATIONSHIP TO EXECUTIVE BRANCH.—The
16 Director is authorized to secure information, data, esti-
17 mates, and statistics directly from the various depart-
18 ments, agencies, and establishments of the executive
19 branch of Government, including the Office of Manage-
20 ment and Budget, and the regulatory agencies and com-
21 missions of the Government. All such departments, agen-
22 cies, establishments, and regulatory agencies and commis-
23 sions shall promptly furnish the Director any available
24 material which the Director determines to be necessary in
25 the performance of the Director's duties and functions

1 (other than material the disclosure of which would be a
2 violation of law). The Director is also authorized, upon
3 agreement with the head of any such department, agency,
4 establishment, or regulatory agency or commission, to uti-
5 lize its services, facilities, and personnel with or without
6 reimbursement; and the head of each such department,
7 agency, establishment, or regulatory agency or commission
8 is authorized to provide the Office such services, facilities,
9 and personnel.

10 (e) RELATIONSHIP TO OTHER AGENCIES OF CON-
11 GRESS.—In carrying out the duties and functions of the
12 Office, and for the purpose of coordinating the operations
13 of the Office with those of other congressional agencies
14 with a view to utilizing most effectively the information,
15 services and capabilities of all such agencies in carrying
16 out the various responsibilities assigned to each, the Direc-
17 tor is authorized to obtain information, data, estimates,
18 and statistics developed by the General Accounting Office,
19 Congressional Budget Office, and the Library of Congress,
20 and (upon agreement with them) to utilize their services,
21 facilities, and personnel with or without reimbursement.
22 The Comptroller General, the Director of the Congres-
23 sional Budget Office, and the Librarian of Congress are
24 authorized to provide the Office with the information,

1 data, estimates, and statistics, and the services, facilities,
2 and personnel, referred to in the preceding sentence.

3 (f) APPROPRIATIONS.—There are authorized to be
4 appropriated to the Office for fiscal years 1998 through
5 2006 such sums as may be necessary to enable it to carry
6 out its duties and functions.

7 **SEC. 4. RESPONSIBILITIES.**

8 (a) TRANSFER OF FUNCTIONS UNDER CHAPTER 8
9 FROM GAO TO OFFICE.—

10 (1) DIRECTOR’S NEW AUTHORITY.—Section
11 801 of title 5, United States Code, is amended by
12 striking “Comptroller General” each place it occurs
13 and inserting “Director of the Office”; and

14 (2) DEFINITION.—Section 804 is amended by
15 adding at the end the following:

16 “(4) The term ‘Director of the Office’ means
17 the Director of the Congressional Office of Regu-
18 latory Affairs established by section 3 of the Con-
19 gressional Office of Regulatory Analysis Creation
20 Act.”.

21 (3) MAJOR RULES.—

22 (A) REGULATORY IMPACT ANALYSIS.—In
23 addition to the assessment of an agency’s com-
24 pliance with the procedural steps for “major”
25 rules described in section 801(a)(2)(A) of title

1 5, United States Code, the Office will also con-
2 duct its own regulatory impact analysis of these
3 “major” rules. This analysis shall include—

4 (i) a description of the potential bene-
5 fits of the rule, including any beneficial ef-
6 fects that cannot be quantified in monetary
7 terms and the identification of those likely
8 to receive the benefits;

9 (ii) a description of the potential costs
10 of the rule, including any adverse effects
11 that cannot be quantified in monetary
12 terms and the identification of those likely
13 to bear the costs;

14 (iii) a determination of the potential
15 net benefits of the rule, including an eval-
16 uation of effects that cannot be quantified
17 in monetary terms;

18 (iv) a description of alternative ap-
19 proaches that could achieve the same regu-
20 latory goal at a lower cost, together with
21 an analysis of the potential benefit and
22 costs and a brief explanation of the legal
23 reasons why such alternatives, if proposed,
24 could not be adopted; and

1 (v) a summary of how these results
2 differ, if at all, from the results that the
3 promulgating agency received when con-
4 ducting similar analyses.

5 (B) TIME FOR REPORT TO COMMITTEES.—
6 Section 801(a)(2)(A) of title 5, United States
7 Code, is amended by striking “15” and insert-
8 ing “45”.

9 (4) NONMAJOR RULES.—The Office shall con-
10 duct a regulatory impact analyses, as defined in
11 paragraph (3)(A), of any nonmajor rule, as defined
12 in section 804(3) of title 5, United States Code,
13 when requested to do so by a committee of the
14 House of Representatives or the Senate, or individ-
15 ual Representative or Senator.

16 (5) PRIORITIES.—

17 (A) ASSIGNMENT.—To ensure that analy-
18 sis of the most significant regulations occurs,
19 the Office shall give first priority to, and is re-
20 quired to conduct analyses of, all “major” rules,
21 as defined in section 804(2) of title 5, United
22 States Code. Secondary priority shall be as-
23 signed to requests from committees of the
24 House of Representatives and the Senate. Ter-

1 tiary priority shall be assigned to requests from
2 individual Representatives and Senators.

3 (B) DISCRETION TO DIRECTOR OF OF-
4 FICE.—The Director of the Office shall have
5 the discretion to assign priority among the sec-
6 ondary and tertiary requests.

7 (b) TRANSFER OF CERTAIN FUNCTIONS UNDER THE
8 UNFUNDED MANDATES REFORM ACT OF 1955 FROM
9 CBO TO OFFICE.—

10 (1) COST OF REGULATIONS.—Section 103 of
11 the Unfunded Mandates Reform Act of 1995 (2
12 U.S.C. 1511) is amended—

13 (A) in subsection (b), by striking “the Di-
14 rector” and inserting “the Director of the Con-
15 gressional Office of Regulatory Analysis”; and

16 (B) in subsection (c), by inserting after
17 “Budget Office” the following: “or the Director
18 of the Congressional Office of Regulatory Anal-
19 ysis”.

20 (2) ASSISTANCE TO THE CONGRESSIONAL OF-
21 FICE OF REGULATORY ANALYSIS.—Section 206 of
22 the Unfunded Mandates Reform Act of 1995 (2
23 U.S.C. 1536) is amended—

24 (A) by amending the section heading to
25 read as follows: **“SEC. 206. ASSISTANCE**

1 **TO THE CONGRESSIONAL OFFICE**
2 **OF REGULATORY ANALYSIS.”; and**

3 (B) in paragraph (2), by striking “the Di-
4 rector of the Congressional Budget Office” and
5 inserting “the Director of the Congressional Of-
6 fice of Regulatory Analysis”.

7 (c) OTHER REPORTS.—In addition to the regulatory
8 impact analyses of major and nonmajor rules described
9 in section 4(a) of the Congressional Office of Regulatory
10 Analysis Creation Act, the Office shall also issue an an-
11 nual report on an estimate of the total cost of Federal
12 regulations on the United States economy.

13 **SEC. 5. EFFECTIVE DATE.**

14 This Act and the amendments made by this Act shall
15 take effect 180 days after the date of enactment of this
16 Act.

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